

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

STEDVIENO D'BARGE MAYES,

No. 2:24-cv-0459 CKD P

Plaintiff,

ORDER

v.
SAN JOAQUIN COUNTY COURTS, et
al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

6 In his complaint, plaintiff complains about criminal proceedings against him in San
7 Joaquin County in 2013. There are two main problems with plaintiff’s claims. First, the
8 limitations for § 1983 claims arising in California is two years. Colony Cove Properties v. City
9 of Carson, 640 F.3d 948, 956 (9th Cir. 2011). Second, plaintiff cannot proceed on a § 1983 claim
10 for damages if the claim implies the invalidity of a criminal conviction or sentence. Heck v.
11 Humphrey, 512 U.S. 477, 487 (1994). Plaintiff cannot proceed on a § 1983 claim for damages
12 concerning a criminal conviction or sentence unless the conviction or sentence has been nullified
13 in criminal or other proceedings. Id. at 486-87. That does not appear to be the case here.

14 For these reasons, plaintiff’s complaint must be dismissed for failure to state a claim upon
15 which relief can be granted. Plaintiff will be granted leave to amend, however.

16 Plaintiff is informed that if he chooses to amend, the court cannot refer to a prior pleading
17 in order to make plaintiff’s amended complaint complete. Local Rule 220 requires that an
18 amended complaint be complete in itself without reference to any prior pleading. This is because,
19 as a general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay,
20 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading
21 no longer serves any function in the case. Therefore, in an amended complaint, as in an original
22 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

23 In accordance with the above, IT IS HEREBY ORDERED that:

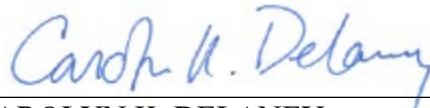
24 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.

25 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
26 shall be collected and paid in accordance with this court’s order to the Director of the California
27 Department of Corrections and Rehabilitation filed concurrently herewith.

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1 3. Plaintiff's complaint is dismissed.
2 4. Plaintiff is granted thirty days to file an amended complaint that complies with the
3 requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of
4 Practice. The amended complaint must bear the docket number assigned this case and must be
5 labeled "Amended Complaint." Failure to file an amended complaint in accordance with this
6 order will result in a recommendation that this action be dismissed.

7 Dated: September 8, 2024



8 CAROLYN K. DELANEY
9 UNITED STATES MAGISTRATE JUDGE

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